

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS EUGENE PORTER :
Plaintiff : CIVIL ACTION
v. : NO. 05-1490
OFFICER MASSI, et al. : JURY TRIAL DEMANDED
Defendants :
:

**REQUESTED VOIR DIRE QUESTIONS
OF PROSPECTIVE JURORS**

Plaintiffs by counsel, Andrew F. Erba and Gerald Williams, respectfully requests that the following questions be asked of prospective jurors, with said questions not being intended to be the complete list of all questions which should be asked of prospective jurors.

A. General Questions

1. Does any member of the jury panel feel that he or she could not follow the law concerning Civil Rights as instructed by the court?
2. The parties in this action are as follows:

Plaintiff: Francis Porter

Defendants: Joseph Massi, William Swanson, William McGoldrick, James Nolan
and Mullen

Do you know any party?

- 3.. Have you or any member of your immediate family ever been employed by the City of Chester, or any governmental agency?
- 4.. Have you or any member of your immediate family ever had any business relationship or

other dealings with defendants?

5 The parties in this case are represented by the following attorneys:

Plaintiff: Andrew Erba, Esquire and Gerald Williams, Esquire

Defendant: Thomas C. Gallagher, Esquire, Esquire

6. Do you know any counsel.

7.. Have you served as a juror before in a criminal or civil case? State or Federal? (If so, ask the follow up questions in Section B, below, for each juror responding in the affirmative)

8.. Do you know anyone employed by or with the City of Chester or the City of Chester Police Department

9. This case involves the alleged violation of Civil Rights under Federal Law and State Law. The plaintiff is African American.

a. Have you had any dealings or experience with African American males that might make it difficult to be a fair and impartial juror where an African American man is the defendant?

b. Could you give the defendant African American, as fair and impartial a trial as you would give a white defendant?

c. Is there any reasons whatsoever why the fact that Andre Wilson is a black would interfere with your ability to give him a fair trial in this case?

10 Do you have any feeling that if a police officer testifies, he must or is telling the truth?

11. Are you related by blood or marriage, or do you have friends or neighbors employed by any law enforcement organizations, police force or prosecutor's office, whether it be private or public or an a local, county, state, national or international level?

12 For those related or friendly to policemen or law enforcement personnel;

a.What is your relationship or friend ship?

- b. How long have you been so employed?
 - c. Is that person still so employed?
- 13. Would you have difficult following the judge's instruction that if Mr. Porter proves his case beyond a preponderance of the evidence, you should find for him?
 - a. Do you understand that the burden of proof in a civil case is a "preponderance of the evidence"? Do you understand that the burden of proof in a criminal case is much tougher, namely, "beyond a reasonable doubt"? In your mind, what is the difference between these two phrases?
 - b. If you believe that the plaintiff proved its case with a majority or 51 percent of the evidence, but you still believed that the defendant was right, how would you vote?
 - c. What else would you consider in rendering your verdict besides the evidence that you have heard and the judge's instructions?
- 14. Would you be able to follow the judge's instructions that the fact that if you find for the Mr. Porter that you may award them damages for the violations of their rights?
- 15. Have you or have someone you know ever been the victim of a crime. If so what crime and when?
- 16. Do you think that the testimony of a law enforcement employee or police officer is entitled to more weight than any other witness, merely because he or she is a police officer?
- 17. There will be evidence to show that Mr. Porter suffered physical and emotional distress losses in connection with this matter and are seeking compensation for these injuries, would any of you have difficulty awarding this type of damages if the plaintiffs prove their case?
- 18. There will be evidence to show that Mr. Porter suffered emotional distress losses in connection with this matter, would any of you expect evidence of injury to award the plaintiffs damages or stated another way can you award damages just for emotional distress

alone?

19. This is an civil rights case where Mr. Porter alleges that his civil rights were violated Have any of the panel members ever participated in any way with a civil rights case?
20. Have any of you ever had your civil rights violated.
21. Do any of you have friends or relatives who were arrested or otherwise had a negative encounter with the Police? Would this influence your ability to tender a fair and impartial verdict based solely on the evidence given in this courtroom?
22. Do you, or any family member, have any work experience related to the law enforcement field? (If answered in the affirmative, ask, at side bar, what is the work experience).
22. Does any member of the panel of believe that an police may can stop anyone for any reason?
23. Does any one of you have any social, religious, moral or philosophical belief which would preclude you from awarding a large money damages award if the evidence warranted such an award?
24. When have you ever been a witness in a court? Tell us about that case and the role you played.
- 25.. When have you ever demanded damages from someone for damages they caused to you, to your family, or to your property?
26. How was this demand settled? Litigation? Insurance settlement? From your own pocket? Some other way?
27. What about those lawsuits would affect your attitude or feelings about this case?
28. Do you have any feelings about lawyers or law firms, either positive or negative, that would affect your judgments in this case?
29. Did any of you serve in the military? If yes, what branch, what rank, what time period?

30 Have any of you ever been a party to a lawsuit? (Was that as a plaintiff or defendant; what was the nature of the action?)

. Have you ever been a witness at a trial?

If yes, how many times? _____

Please describe:

. Have any of you ever served on a jury before? (Civil or criminal; nature of the case).

If yes, was there anything about your experience as a juror that would affect how you view the Court system, or whether you could be fair and impartial as a juror on this case?

31. Do all of you realize that although there will be many people on this jury, each of you will have the task of making up your own mind, and voting your convictions. After listening to the opinions of your fellow jurors, will you be able to stick to your own convictions and hold to your own vote, even if you are the only one who feels that way?

32. Will you promise me that if you are chosen as a juror in this case, you will decide the case solely on the basis of the evidence that you will hear in the courtroom, and on the instructions and law the judge will give you, and that you will not consider any outside sources of information in reaching your verdict?

33. When you and your fellow jurors are deliberating over this case, if one of your fellow jurors states a view or opinion that indicates that he or she is prejudiced against one of the parties to the suit, or is considering some matter that judge has told you not to consider, or is unwilling to follow the law as it is given to you by the judge, will you be able to carry out your oath as a juror by speaking out and stating that these matters must not be considered?

34. Do you have any social, religious, moral or philosophical belief which would preclude you from awarding to Francis Porter, a substantial amount of money for physical pain, suffering and consequential damages, if that award was warranted by the evidence?

35. Plaintiff, Francis Porter, is also claiming that defendants' actions were outrageous and were intentionally or recklessly indifferent to his rights. Therefore, plaintiff will be asking that you award punitive damages against individual defendants

36. Do you have any social, religious, moral or philosophical belief which would preclude you from awarding to plaintiff, Francis Porter, a substantial amount of money as punitive damages, if that award was warranted by the evidence?

37. It is anticipated that this civil trial will take approximately four days. Would there be any great undue hardship on you to serve as a juror in this case?

38. Is there is anything, any reason at all, however personal or private, that makes you feel that you would not like to serve on this case, or could not be fair and impartial? If so, please raise your hand.

B PRIOR JURY SERVICE

1. Have you ever served on a jury before?
2. In state or federal court?
3. What sort of case was it? Civil or Criminal?
4. Did you reach a verdict? What was the verdict.
5. What were your impression of the jury system or the criminal justice system?
6. How did you feel about the process of deliberations.
7. Was there anything about the case which was difficult for you and makes you at all hesitant to serve on this case.

8. After that case did you have any discussions with any of the attorneys in that case?
9. What did they tell you about the case?
10. What did you think of the attorneys in the case?

C. Individual Questions

- 1 Have you ever served in any branch of the U.S. military?
(Yes No)
2. If yes, please list the branch of service and your highest rank.
3. Are you married. How long.
4. Do you have children, if so what are their ages.
- 5 Do you reside in a city or suburban area? How long have you lived there.
4. Have you ever had a negative experience with a person of another race? If so tell me about it.

Respectfully submitted,

Andrew F. Erba (ae-2336)
Andrew F. Erba, for Plaintiffs
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PA. Attorney I.D. No. 20943

CERTIFICATE OF SERVICE

It is certified that on this day a true and correct original or a copy of the plaintiff's Voir Dire Questions were served to the following at the address set out below by the means stated herein:

Thomas C. Gallagher, Esquire
Holsten & Associates
One Olive Street
Media PA 19063
By Facimile and United States Mail

/s/ Andrew Erba (ae-2336)

Andrew F. Erba

dated: November 28, 2005